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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,058	03/30/2004	Kak-Shan Shia	15551-003001	5712
69713 7590 06/04/2007 OCCHIUTI ROHLICEK & TSAO, LLP 10 FAWCETT STREET CAMBRIDGE, MA 02138			EXAMINER GRAFFEO, MICHEL	
			ART UNIT 1614	PAPER NUMBER
			MAIL DATE 06/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,058

Applicant(s)

SHIA ET AL.

Examiner

Michel Graffeo

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 1-28,30-39,41-46 and 48-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29, 40 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/18/2006 1st
9/27/04 1st
3/30/04 1st
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group III, a compound having the structure of compound number 25 on page 9 in the specification, wherein the compound is recited in claims 29, 40 and 47, in the reply filed on 8 February 2007 is acknowledged. The species election is expanded to include the compound: NH₂-CH₂-CH₂-NH-phenyl-CH₂-NH₂ (i.e. wherein R₁ is H, X is not present/deleted, R₂ is H, Z₁ CH₂, Y is phenyl, Z₂ is CH₂ and R₃ and R₄ are H) which can be found in claims 29, 40 and 47. Claims 1-28, 30-39, 41-46 and 48-57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Status of Action

Claims 29, 40 and 47 are examined.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29, 40 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the claims (see for example

claim 29) include the limitation "deleted". In claim 29 for example, if X is "deleted" there is no direction or explanation as to what happens with R1 or the valence on the N to which X is bound. Each examined claim has the limitation "deleted" for at least one variable or depends from a claim that has the limitation "deleted" for at least one variable. To that end, the claims are rejected as being indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

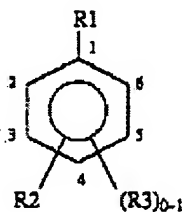
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

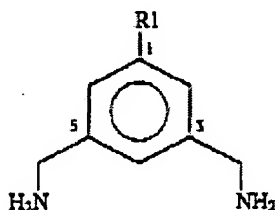
Claims 29, 40 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5567411 to Keana et al. in view of US Patent No. 5252317 to Keana.

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Keana et al. teaches a compound having the general structural formula:

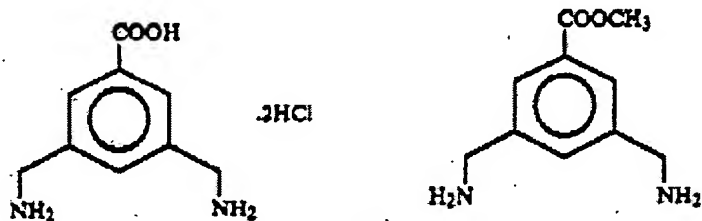


(see col 3 lines 25-35) wherein the preferred formula is:



(see col 3 lines 45-55) and further wherein at least one of the amino groups are substituted (see col 8 lines 44-46) with a C1-C12 alkyl linking group (see col 4 line 48) and NH as the terminal R11 group (see col 4 line 38) and finally wherein R1 is H (see col 11 Table 1). Although Keana et al. teaches a terminal group of NH wherein N has an unsatisfied valence, Keana et al. does not explicitly suggest satisfying the valence with H.

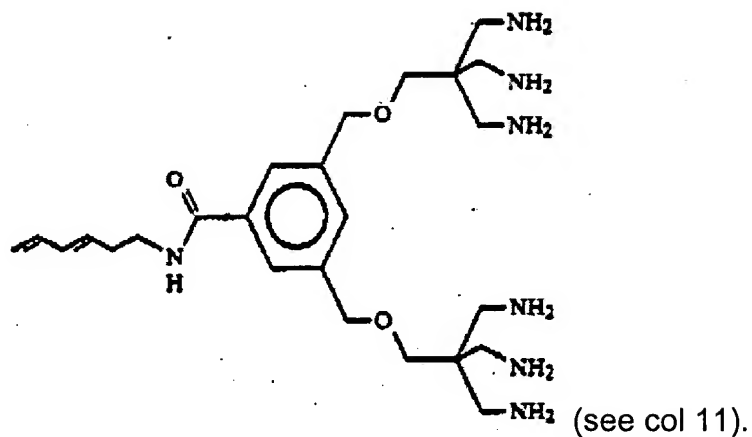
Keana teaches amplifier compounds such as:



(see cols 4 and 7).

Keana further teaches that the amplifier compounds are made with NH₂ terminal ends:

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One of ordinary skill in the art would have been motivated to combine the above references and as combined teach the claimed invention as claimed. One of ordinary skill in the art would have been motivated to combine Keana et al. with Keana because Keana et al. sites Keana on the first page of the patent. Moreover, Keana et al. teach that the terminal groups are any "active group" wherein the active group is not limited and is any pharmacological or diagnostic group (see col 9 lines 5-15). To that end, Keana teaches the same core amplifier molecule of Keana et al. with the addition of the terminal groups of NH₂ (see col 11 above). Therefore, as combined the references teach the molecule NH₂-CH₂-CH₂-NH-phenyl-CH₂-NH₂. Thus, the combined references make prima facie obvious how to use the claimed invention at the time that it was made.

Conclusion

No claim is allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michel Graffeo whose telephone number is 571-272-8505. The examiner can normally be reached on 9am to 5:30pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7 May 2007

MG


ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER